

SENATE BILL NO. 289

INTRODUCED BY LAIBLE

A BILL FOR AN ACT ENTITLED: "AN ACT ~~PROHIBITING~~ PROVIDING THAT A LOCAL GOVERNMENT WITH SELF-GOVERNING POWERS ~~FROM IMPOSING~~ MAY NOT IMPOSE A LICENSE FEE OR LICENSE TAX ON A REAL ESTATE BROKER OR SALESPERSON; AND AMENDING SECTIONS ~~7-1-111 AND~~ SECTION 37-51-312, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~Section 1. Section 7-1-111, MCA, is amended to read:~~

~~"7-1-111. Powers denied. A local government unit with self-government powers is prohibited from exercising the following:~~

~~—— (1) any power that applies to or affects any private or civil relationship, except as an incident to the exercise of an independent self-government power;~~

~~—— (2) any power that applies to or affects the provisions of 7-33-4128 or Title 39 (labor, collective bargaining for public employees, unemployment compensation, or workers' compensation), except that subject to those provisions, it may exercise any power of a public employer with regard to its employees;~~

~~—— (3) any power that applies to or affects the public school system, except that a local unit may impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise any power that it is required by law to exercise regarding the public school system;~~

~~—— (4) any power that prohibits the grant or denial of a certificate of public convenience and necessity;~~

~~—— (5) any power that establishes a rate or price otherwise determined by a state agency;~~

~~—— (6) any power that applies to or affects any determination of the department of environmental quality with regard to any mining plan, permit, or contract;~~

~~—— (7) any power that applies to or affects any determination by the department of environmental quality with regard to a certificate of compliance;~~

~~—— (8) any power that defines as an offense conduct made criminal by state statute, that defines an offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6 months' imprisonment, or both, except as specifically authorized by statute;~~

1 ~~———— (9) any power that applies to or affects the right to keep or bear arms, except that a local government~~
2 ~~has the power to regulate the carrying of concealed weapons;~~

3 ~~———— (10) any power that applies to or affects a public employee's pension or retirement rights as established~~
4 ~~by state law, except that a local government may establish additional pension or retirement systems;~~

5 ~~———— (11) any power that applies to or affects the standards of professional or occupational competence~~
6 ~~established pursuant to Title 37 (professions and occupations) as prerequisites to the carrying on of a profession~~
7 ~~or occupation;~~

8 ~~———— (12) except as provided in 7-3-1105, 7-3-1222, or 7-31-4110, any power that applies to or affects Title~~
9 ~~75, chapter 7, part 1 (streambeds), or Title 87 (fish and wildlife);~~

10 ~~———— (13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is intended~~
11 ~~to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title 70,~~
12 ~~chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require landlords~~
13 ~~to comply with ordinances or provisions that are applicable to all other businesses or residences within the local~~
14 ~~government's jurisdiction.~~

15 ~~———— (14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;~~

16 ~~———— (15) any power to impose a license fee or tax on a real estate broker or salesperson as provided in~~
17 ~~37-51-312."~~

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19 **Section 1.** Section 37-51-312, MCA, is amended to read:

20 **"37-51-312. No taxation by municipality.** ~~No (1) A~~ license fee or LICENSE tax may not be imposed on
21 a real estate broker or salesperson AS A CONDITION TO THE PRACTICE OF THE BROKER'S OR SALESPERSON'S
22 PROFESSION by a municipality or any other political subdivision of the state, including a local government with
23 self-governing powers.

24 (2) THIS SECTION DOES NOT PROHIBIT A MUNICIPALITY OR OTHER POLITICAL SUBDIVISION OF THE STATE FROM
25 IMPOSING A GENERAL BUSINESS LICENSE FEE OR GENERAL BUSINESS LICENSE TAX ON AN ESTABLISHMENT AS A CONDITION
26 OF CONDUCTING BUSINESS IN THE MUNICIPALITY'S OR OTHER POLITICAL SUBDIVISION'S JURISDICTION."

27 - END -